

### REMARKS

Claims 11-58 are pending and stand rejected under 35 U.S.C. § 103(a) as being obvious over Cagle et al. U.S. Patent 6,395,746 ("Cagle '746"). Cagle '746 does not qualify as prior art under any provision of the patent laws.

Cagle '746 and the subject application name the same inventors and each claims priority to provisional applications filed the same day, September 30, 1998. Moreover, Cagle '746 and the subject application are commonly owned and were commonly owned at the time of invention. Therefore, Cagle '746 is also excluded as prior art under § 103(c)(1).

The Office Action's statements with respect to the alleged obviousness of the claimed invention over Cagle '746 therefore are not relevant. A terminal disclaimer over Cagle '746 was filed August 31, 2006, so any question of obviousness-type double patenting is moot. Reconsideration and withdrawal of the § 103 rejection are respectfully requested.

As all outstanding issues have been resolved, the application is now in condition for allowance. Prompt issuance of a Notice of Allowance is earnestly solicited.

Respectfully submitted,  
BANNER & WITCOFF, LTD.

Date: January 19, 2007

1001 G Street N.W.  
Washington, DC 20001-4597  
(202) 824-3000 (telephone)  
(202) 824-3001 (facsimile)

By: /Paul M. Rivard/  
Paul M. Rivard  
Registration No. 43,446